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COMMISSION ON HUMAN RIGHTS

Forty-ninth session

SUMMARY RECORD OF THE FIRST MEETING

Held at the Palais des Nations, Geneva,
on Monday, 1 February 1993, at 10 a.m.

Temporary Chairman: Mr. NASSERI (Islamic Republic of Iran)

Chairman: Mr. ENNACEUR (Tunisia)

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GE.93-10369 (E)

The meeting was called to order at 11.40 a.m.

OPENING OF THE SESSION

1. THE TEMPORARY CHAIRMAN, acting in the place of the Chairman of the forty-eighth session of the Commission on Human Rights, who was unable to be present, declared open the forty-ninth session.

2. Mankind's legitimate hopes, as it entered into the century's final decade, for the advent of an age of peace, prosperity, freedom and justice had once again been dashed; it seemed that the end of the cold war had unleashed a whole set of demons thought to be extinct. The situation should not, however, give rise to despair, but should rather be seen as a challenge to be taken up.

3. The United Nations would have a fundamental role to play in that regard. The Charter was based on the fundamental and indivisible principles of peace, development and human rights. Within the field of human rights itself, success depended to a great extent on the respect accorded to economic, social, cultural, civil and political rights. It was a delicate matter to strike a balance between the implementation of those various rights; as the Secretary-General had remarked, human rights could not be upheld in the absence of economic development, while sustained economic development could not be realized without respect for human rights.

4. The new democracies of Eastern Europe and the countries of the former Soviet Union were facing severe economic problems that encouraged the emergence of totalitarian trends. Populations too preoccupied with the daily struggle for survival were less and less concerned with freedoms and human rights. There was equal case for dismay at the re-emergence in Europe's older democracies of violently racist tendencies, which were attributed to the recession - albeit relatively modest - in the region. The same factors were held responsible for the murderous rioting and disorder which affected a number of North American cities. At the same time many peoples in the developing world did not even enjoy the basic essentials for survival. The culture of human rights lost its meaning if chronic distress were not ended by the establishment of a favourable economic environment. Nevertheless, even if it was true that the effort to secure human rights in the strictest sense of the term did not, of itself, advance the cause of economic development, no economic ills, however disastrous, could justify the violation of human rights and fundamental freedoms.

5. The year 1993, that of the World Conference on Human Rights, provided an opportunity for reviewing progress, measuring the challenges that lay ahead, identifying the most critical shortcomings and attempting remedial action. In the standard-setting, much had already been achieved and the process was continuing. Many countries had also adhered to the human rights treaties. Nevertheless, some 60 countries, not counting the newly independent States, had as yet ratified neither of the two International Covenants on Human Rights: 25 Islamic States were among their number. Many of the signatories acknowledged that they had acceded to the Covenants out of fear of isolation or under political pressure. The Islamic States had already adopted their own Declaration of Human Rights, while the developing countries had also voiced their dissatisfaction with the existing instruments. The recent Non-Aligned

Summit had once again called for greater account to be taken, in the definition of human rights, of the historical, political, economic, social, religious and cultural realities that were specific to different countries or regions.

6. It was an accepted fact that the Islamic countries and the developing countries lacked the political leverage to contribute effectively to the formulation of basic human rights instruments. That being so, there were two options: either to ignore the reality and insist on the unalterability of those instruments on the grounds that they were broadly accepted; or to look at them again with a view to rendering them truly universal through renewed dialogue, while preserving the essential tenets already enshrined therein.

7. With respect to implementation, progress had been impeded by a lack of objectivity and impartiality that had been constantly deplored, the reasons for which must consequently be investigated. United Nations bodies dealing with human rights, which had been highly politicized during the cold war, should themselves be depoliticized to the greatest extent possible; that would require goodwill, imagination and innovativeness. As a century so heavily marked by the burden of history and by upheaval drew to a close, the implementation of human rights must not remain a mirage.

8. In 1992, the Commission had held two special sessions to examine the horrendous violations of human rights in Bosnia and Herzegovina: ethnic cleansing, mass murder, rape and other crimes that were tantamount to genocide. That situation should be accorded priority attention by the Commission, together with the issue of self-determination in the occupied territories, including Palestine, and the evolution of apartheid. The Commission should also concern itself as a matter of priority with the fate of the Palestinian deportees, who must be repatriated to Palestine in accordance with the relevant Security Council resolution.

STATEMENT BY THE UNDER-SECRETARY-GENERAL FOR HUMAN RIGHTS

9. Mr. BLANCA (Under-Secretary-General for Human Rights) said that never before had democratic aspirations been voiced so clearly, so powerfully and so universally as in 1992. The free choice of governors by the governed had almost everywhere become the standard rule, and that must be a matter of satisfaction to all who set store by the rule of law, the defence and promotion of freedom and equality, respect for the individual and the fullest participation of citizens. The worldwide dimension assumed by the democratic idea meant that mankind was being confronted by new challenges whose solution depended on real progress in the establishment of institutions to support and strengthen that idea.

10. On the other hand, never in the past had the floodgates of violence and hatred been opened so wide. The inadmissible practice, condemned by the international community, of ethnic cleansing, which was particularly pronounced in Bosnia and Herzegovina, had resulted in the most serious, massive and systematic violations of human rights and of international humanitarian law.

11. The current session of the Commission constituted the first significant stage in what might indeed be called "the year of human rights". Three major events would highlight the importance and the central position of human rights in the thinking and the concerns of the United Nations and the international community: the International Year of the World's Indigenous People, the World Conference on Human Rights, and, lastly, the celebration of the forty-fifth anniversary of the adoption of the Universal Declaration of Human Rights.

12. In his report on the work of the Organization, the United Nations Secretary-General stressed that, although standards and procedures existed for normal situations, the United Nations had not been able to act effectively to put an end to massive human rights violations. Faced with the barbaric conduct which filled the news media daily, it could not stand idle or indifferent. The long-term credibility of the Organization as a whole would depend upon its success in responding to that challenge. The two special sessions devoted by the Commission to the situation of human rights in the territory of the former Yugoslavia had gone some way to meeting those expectations through recourse to the exceptional procedure provided for by the Economic and Social Council. The reports of the Special Rapporteur had led the Commission to adopt a resolution without precedent in its history. In addition to condemning categorically the practice of ethnic cleansing and recognizing Serbian responsibility, it reaffirmed that all persons who perpetrated or authorized crimes against humanity were "individually responsible" for such violations and that the international community would exert every effort to bring them to justice.

13. The time had perhaps come to reflect more deeply on certain ideas which had been put forward concerning an international criminal tribunal. Similarly, the study of the impunity enjoyed by those responsible for human rights violations, which was a basic impediment to respect for those rights, should culminate in recommendations and practical measures to put an end to such impunity.

14. Among the shadows in the area of human rights, the resurgence of racism, racial discrimination, xenophobia and anti-Semitism, together with the fate inflicted on national, ethnic, religious and linguistic minorities, were sources of grave concern. In that regard, strengthened action at the national and international levels alike was more than ever necessary. A third decade to combat racim and racial discrimination was thus imperative, and its launching, in 1993, by the General Assembly would favour increased international cooperation in the face of that plague. The appointment by the Commission on Human Rights of a special rapporteur on contemporary forms of racism and xenophobia worldwide would undoubtedly constitute the first step in the context of that new decade.

15. The strength of reason had been pitted against the reason of strength throughout the ages. The essential role of education and information in making known all the principles and instruments related to human rights required no emphasis. It was clear that democracy and the culture of human rights could develop only in the rich humus of universal education and subsoil of open-mindedness and tolerance. The effective protection and promotion of human rights was one of the major but also one of the most exciting challenges as the century drew to its end. That must be a coperative undertaking on the

part of all concerned: Governments, national institutions, non-governmental organizations, universities, teachers, the mass media, and - of course - the United Nations, the specialized agencies and intergovernmental and regional organizations. In that connection, the Centre for Human Rights had produced a large number of publications and information pamphlets as part of the World Public Information Campaign. Seminars, workshops, and training courses and fellowships were all ways and means of spreading the message of human rights. The UNESCO World Conference on Human Rights in Education and Democracy would make a useful contribution to consideration of the issue, and should open new channels which would be taken into account at the World Conference in Vienna.

16. The past year had seen an increase in requests for advisory services and technical assistance. Many countries that had embarked on the path of democracy were anxious to strengthen or establish institutions for the promotion and protection of human rights. For its part, the Centre had adopted a new policy based on a global approach to each country's needs, and a programme proposing specific projects tailored to those needs. Assistance with the various legal, technical or human rights-related aspects of democratic elections had been one of the key innovative elements of its programme.

17. To be in a position to respond to those growing requests for technical assistance, the Centre for Human Rights was endeavouring to establish a genuine partnership with the agencies and institutions of the United Nations and with other development cooperation agencies. That new method strengthened inter-agency cooperation and made it possible to integrate the human rights dimension in development processes and the United Nations system's political strategies for development.

18. All those substantive issues would undoubtedly form a central component of the discussions at the World Conference on Human Rights. Since the Commission's last session, the Preparatory Committee had met twice at Geneva and had adopted the rules of procedure for the Conference and a decision concerning participation in the preparatory regional meetings by those non-governmental organizations working in the fields of human rights or development that had their headquarters in the region concerned. Such non-governmental organizations had, incidentally, contributed greatly to the success of the first two regional meetings, held at Tunis and in Costa Rica. In both cases, the consensus declarations adopted had reaffirmed the importance attached by the States of the region to the principle of the Universal Declaration and to the two International Covenants on Human Rights. After the next regional meeting for Asia and the Pacific, it would thus be possible to obtain an overall picture of each region's concerns and areas of special interest. The final session of the Preparatory Committee could thus be devoted to substantive matters and to the results expected of the Vienna Conference.

19. A resolution presented by 134 countries had enabled agreement to be reached on a provisional agenda, thus leaving the way clear for in-depth debate and work on the major questions to be examined at the World Conference. The Conference would have, first, to assess the progress made on the road to universal respect for human rights, the effectiveness of the methods and

mechanisms established by the United Nations, and ways and means of strengthening the application of the standards in force; and secondly, to prepare for future action at governmental and United Nations levels.

20. In those difficult times, when tragedy was an everyday occurrence and mutual lack of understanding and suspicion were in danger of once again becoming the rule among the members of the international community, it was essential that all parties should affirm, by their presence, in their work and in their dialogues, the will of mankind to ensure that the universality of the principles set forth in 1948 by the General Assembly should be the basis of all action, whether civil, economic or cultural. Victor Hugo had said that, in the field of human rights, there was still more promised land than ground gained. Consequently, no effort must be spared to bring that promised land closer, and to make the twenty-first century the one in which the rule of law would prevail over arbitrariness and Messianism.

ELECTION OF OFFICERS (item 1 of the provisional agenda)

21. The TEMPORARY CHAIRMAN said that, in accordance with rule 15 of the rules of procedure of the functional commissions of the Economic and Social Council, the Commission had to elect the Chairman and other officers for its forty-ninth session.

22. Mr. Ennaceur (Tunisia) was elected Chairman by acclamation.

23. Mr. Ennaceur (Tunisia) took the Chair.

24. The CHAIRMAN thanked the members for the honour they had done his country by electing him Chairman of the Commission at its forty-ninth session. With the increase in the number of countries that had ratified the international human rights instruments and the establishment of the cause of human rights as one of the underlying principles governing international relations, a new international climate of opinion had set in, one devoted to that cause and bent on ensuring respect for those rights and their full realization throughout the world. It was important to highlight the essential role played in that regard by the representatives of the mass media, who had given humanitarian causes their rightful place in the hierarchy of public concerns, sometimes risking their lives in the process.

25. At a time when the international community was improving the procedures for monitoring application of human rights standards and when a general awareness of the values they represented, as well as of democratic values, was gaining ground, the world was unfortunately witnessing a proliferation of massive human rights violations which called into question the community's credibility and its capacity to impose a world order based on justice, freedom and respect for human rights. In several regions of the world, the end of the century was marked by a resurgence of violence and terrorism, by civil wars and by ethnic, tribal and social conflicts, and by the collapse of certain State institutions which, by bringing about a weakening of the rule of law, often opened the way to anarchy, with the massive and flagrant violations of human rights that were its concomitant. There was also a serious deterioration in the human rights situation as a result of the extension of poverty and the failure to meet the basic needs of broad sections of the

population. Also worthy of note were the emergence of new extremist tendencies, under the cloak of religion or of the defence of racial or ethnic groups, and of new forms of social behaviour based on the exclusion and rejection of others.

26. In response to those diverse and complex situations, the international community must implement a comprehensive and integrated international strategy for the protection and promotion of human rights, that took account of all aspects of the problem. The World Conference on Human Rights, to be held in Vienna in June 1993, should set out, inter alia, to examine the mechanisms and structures to be used in the context of such a strategy. While all the States members of the Commission had different interests, they must nevertheless keep constantly in mind that they had a common objective, namely respect for and promotion of all human rights, whether civil and political or economic, social and cultural; and one could reasonably hope that they would work together in the Commission in a spirit of serenity and cooperation.

27. Furthermore, the Commission must not merely condemn human rights violations; it must also prevent them, analyse objectively the manifold causes of infringements of those rights, and evaluate the progress made and the shortcomings to be rectified. He suggested that the evaluation of the results of each session of the Commission should concern not merely the number of resolutions adopted, but should also lead the member States to ask themselves what the Commission had actually done to improve the situation with regard to human rights.

28. He concluded by inviting the Commission to elect one or more vice-chairmen and other officers from among the representatives of its members.

29. Mr. Flinterman (Netherlands), Mr. Garretón (Chile) and Mr. Brotodiningrat (Indonesia) were elected Vice-Chairmen.

30. Mr. Kedzia (Poland) was elected Rapporteur.

31. Mr. BAUM (Germany), speaking on a point of order, said that the European Community and its member States did not accept that the Federal Republic of Yugoslavia (Serbia and Montenegro) had automatically succeeded the Socialist Federal Republic of Yugoslavia. He referred, in that connection, to General Assembly resolution 47/1, adopted on 22 September 1992, in which the Assembly considered that the Federal Republic of Yugoslavia (Serbia and Montenegro) could not continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations; and in which it therefore decided that the Federal Republic of Yugoslavia (Serbia and Montenegro) should apply for membership in the United Nations and that it should not participate in the work of the General Assembly. The European Community and its member States had also noted the opinion of the United Nations Legal Counsel on the applicability of the General Assembly resolution to the other United Nations organs. Resolution 47/1 was, in their opinion, a model for the procedure to be followed, as and when applicable, in the specialized agencies and other organs of the United Nations. They did not accept that the representatives of the Federal Republic of Yugoslavia (Serbia and Montenegro) were the valid representatives of Yugoslavia at the current

session of the Commission. The presence of those representatives was without prejudice to any decision that the Community and its member States might take at a later date.

32. Mr. ABRAM (United States of America), Mr. DUBOIS (Canada), Mr. STROHAL (Austria), Mr. WILLIS (Australia), Mr. VELTHEIM (Finland), speaking also on behalf of Denmark, Iceland, Norway and Sweden, and Mr. ITO (Japan) associated themselves with the statement by the representative of Germany. Also referring to Assembly resolution 47/1, they did not accept that the Federal Republic of Yugoslavia (Serbia and Montenegro) had automatically succeeded the Socialist Federal Republic of Yugoslavia. Any participation by the Federal Republic of Yugoslavia (Serbia and Montenegro) in the Commission's session as an observer, should it occur, was without prejudice to the decisions that might be taken subsequently.

33. The CHAIRMAN took note of the statements by the representatives of Germany, the United States of America, Canada, Austria, Australia, Finland and Japan.

ADOPTION OF THE AGENDA (item 2 of the provisional agenda) (E/CN.4/1993/1 and Add. 1; E/CN.4/1993/78 and 80)

34. Ms. PARK (Canada) said that, since the Commission's last session, the attention of the international community had been focused on the human rights situation in the former Yugoslavia. All the efforts that had been made, at every level, to put an end to the violations committed in that country had proved fruitless. The seriousness of the situation had necessitated the convening of two special sessions of the Commission: the first in August 1992, at which it had appointed a Special Rapporteur on the question, Mr. Mazowiecki; the second in December 1992, at which it had considered the reports prepared by the Special Rapporteur. As there was no sign of a halt to the atrocities being committed in the former Yugoslavia, it was absolutely essential that the Commission should consider the question as a matter of priority. Her delegation thus proposed the inclusion of a new item in the agenda, to be entitled "Situation of human rights in the territory of the former Yugoslavia". She hoped that all the members of the Commission would accept that proposal, and that the new agenda item could be debated at the beginning of the following week, when the Special Rapporteur would himself be present.

35. Mrs. GALVIS (Colombia) reminded members that the General Assembly had proclaimed 1993 to be the International Year of the World's Indigenous People. That decision had been enthusiastically welcomed by the countries of the Latin American Group, which had taken a number of initiatives to ensure that the Year was commemorated in an appropriate fashion. Convinced that the Commission should accord high priority to that question, her delegation proposed the inclusion in the agenda of a new item entitled "Commemoration of the International Year of the World's Indigenous People". It would be for the officers to determine how the Commission was to commemorate the Year.

36. Mr. ABRAM (United States of America) said he supported the proposal by the representative of Canada. The human rights situation in the former Yugoslavia was indeed extremely serious, and there was no reason to expect any

improvement, since the major leaders did not seem disposed to take remedial measures. What was currently happening in the former Yugoslavia constituted a threat to peace, not only in Europe, but also in the entire world, and it was thus essential that the Commission should give top priority to the question, thereby demonstrating its awareness of its responsibilities in the field of human rights.

37. Mr. BAUM (Germany) said he, too, thought that the Commission should examine the situation of human rights in the former Yugoslavia as a matter of urgency. His delegation thus supported the proposal by the Canadian delegation, and hoped that the Commission would be able to begin a discussion on the question at the start of the following week, when the report by the Special Rapporteur, Mr. Mazowiecki, would be available. His delegation also supported the Colombian proposal that the International Year of the World's Indigenous People should be added to the agenda as a separate item.

38. Mr. STROHAL (Austria) said he, too, unreservedly supported the Canadian proposal that the Commission should examine the situation of human rights in the former Yugoslavia under a separate item of its agenda, as his delegation was particularly concerned by the events there, and especially in Bosnia and Herzegovina. It hoped that Mr. Mazowiecki's report would be available very shortly, and that the decisions to be taken by the Commission at the end of its consideration would lead to the adoption of remedial measures.

39. Mr. DUBOIS (Canada) said that Canada took a general interest in all questions relating to indigenous peoples and had enthusiastically supported the proclamation by the General Assembly of the International Year of the World's Indigenous People. Canadian representatives had, incidentally, taken an active part in the ceremonies held in New York on 10 and 11 December 1992 to mark the beginning of the Year, and had made a contribution in support of the activities to take place in that context. His delegation thus supported the proposal by the representative of Colombia. However, it saw no need to amend the Commission's agenda, since questions relating to indigenous populations could be dealt with under agenda item 19 in the normal fashion. The officers might, perhaps, consider what should be done to ensure that the question was taken up by the Commission as a matter of priority.

40. Mr. MALGUINOV (Russian Federation) supported the proposal that the Commission should consider the situation of human rights in the former Yugoslavia under a separate item of its agenda, since the question was one of great importance, to which the utmost attention should be devoted as a matter of urgency. His delegation hoped that the debate would take account of the documents to be made available to the Commission in that regard, including the most recent report by Mr. Mazowiecki, and that the documents in question would be available in all the official languages of the United Nations.

41. The CHAIRMAN noted that the Canadian proposal to include a new item on the agenda entitled "Situation of human rights in the territory of the former Yugoslavia" seemed to meet with general approval. The second proposal, regarding the addition to the agenda of a new item entitled "Commemoration of the International Year of the World's Indigenous People", put forward by the representative of Colombia, had received some support but had also elicited some reservations on the part of the Canadian delegation. Consequently, he

suggested that the Commission should adopt the Canadian proposal forthwith and that it should revert at a latter stage to the second amendment to the agenda proposed by the delegation of Colombia, when a consensus had emerged on the point.

42. Mr. ALFONSO MARTINEZ (Cuba), speaking on a point of order, said that the Canadian delegation had raised no objection to the Colombian proposal. It had merely said that, once the new item had been placed on the agenda, the officers might then make recommendations regarding the procedure to be followed by the Commission in its commemoration of the Year. Moreover, the German delegation had also supported the proposal. His own delegation took the view that the proposal was a most appropriate one that would enable questions under agenda item 19 to be examined in greater detail. It would thus be better to decide to include that new item in the agenda without further ado.

43. Mr. DUBOIS (Canada) said that his delegation supported the idea of commemorating the International Year of the World's Indigenous People. However, in view of the fact that agenda item 19 also dealt with indigenous people, it saw no need to add to the agenda a new item on the topic.

44. Mr. GARRETÓN (Chile) said he was aware of the fact that the International Year of the World's Indigenous People could be discussed under agenda item 19, but that, in order to demonstrate its solidarity with the indigenous peoples, the Latin American Group wished to make a significant political gesture going beyond consideration of reports or of draft resolutions on the question. His delegation thus unreservedly supported the Colombian proposal to make commemoration of the International Year of the World's Indigenous People a separate item on the Commission's agenda.

45. The CHAIRMAN pointed out that, however that might be, the Colombian proposal did not command a consensus, and that the Commission was thus unable to decide to adopt it immediately. He therefore suggested that any delegations wishing to do so should engage in consultations on the question and submit to the officers their proposals as to the best way of proceeding.

The meeting rose at 1.40 p.m.

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COMMISSION ON HUMAN RIGHTS

Forty-ninth session

SUMMARY RECORD OF THE 2nd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 2 February 1993, at 10 a.m.

Chairman: Mr. ENNACEUR (Tunisia)

CONTENTS

Organization of the work of the session

Question of the violation of human rights in occupied Arab territories, including Palestine

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GE.93-10405 (E)

The meeting was called to order at 10.55 a.m.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3)

1. The CHAIRMAN said that, after considering the various suggestions for organizing the work of the session, the officers proposed a provisional timetable that could be revised later in consultation with the coordinators of the various regional groups. In response to requests made at the previous meeting by various members of the Commission, they recommended the addition to the agenda of two new items, entitled: "Situation of human rights in the territory of the former Yugoslavia", which would be item 27; and "Commemoration of the International Year of the World's Indigenous People", which would be item 28. Item 27 could be considered on 9 and 10 February 1993, provided that the Special Rapporteur, Mr Mazowiecki, was able to submit his report at that date; and item 28 on 17 February 1993, which was the date when the Commission would receive Ms. Rigoberta Menchú, the Nobel Peace laureate. A decision would be taken with regard to consideration of the reports on El Salvador and Guatemala when they became available.

2. The officers also recommended that, as was customary, the members of the Commission should be limited to one statement of 15 minutes or two statements of 10 minutes per item, and observers and non-governmental organizations to one statement of 10 minutes per item. Observer States and liberation movements mentioned in a report would be able to make one statement of 15 minutes or two statements of 10 minutes per item. There would be three lists of speakers, one for members of the Commission, one for observer States and one for non-governmental organizations; the lists would be taken in that order. With regard to rights of reply, the practice followed by the General Assembly, namely, limiting that right to two replies, five minutes for the first and three minutes for the second, would be observed. In view of the extremely heavy agenda, it would, moreover, be desirable for delegations from the same regional group or several non-governmental organizations to combine a number of statements of the same tenor into a single statement on certain subjects.

3. The officers further proposed that, as at previous sessions, the various experts and special rapporteurs should be invited to appear before the Commission to introduce the studies or reports which it had requested them to prepare on the various agenda items, and that a number of distinguished personalities who had expressed the wish to address the Commission should be invited to do so. Concerning the participation of the Czech Republic in the work of the Commission, the officers had taken note of the letters addressed to the Commission by the authorities of that State and of the Slovak Republic, announcing that, by virtue of an agreement between the two countries, the Czech Republic would occupy the seat of the former Czech and Slovak Federal Republic. The officers were nevertheless of the opinion that it was for the Economic and Social Council to pronounce on that matter and that, in the meantime, both States would take part in the work of the Commission as observers.

4. Mr. BROTODININGRAT (Indonesia) said that, according to the provisional timetable which had been distributed, item 28 was one of those on which draft resolutions would be submitted for adoption. Given that the new item dealt with commemoration of the International Year of the World's Indigenous People, he presumed that that was an error.

5. The CHAIRMAN said that there had indeed been a mistake, which would be corrected by the Secretariat.

6. Mr. DUBOIS (Canada) said he noted with great satisfaction that items 19 and 28 would be considered together; that would permit the representatives of indigenous peoples to be present for the Commission's commemoration of the International Year.

7. Mr. ALFONSO MARTINEZ (Cuba) drew the Commission's attention to operative paragraph 1 of resolution 1992/83 adopted at its forty-eighth session, in which it had decided to consider the question of the rationalization of its work at the beginning of its forty-ninth session. The officers might, perhaps, wish to consider at their next meeting what should be done in that regard.

8. The CHAIRMAN said that the officers had taken due note of that observation, and would examine the matter at their next meeting. If he heard no objection, he would take it that the Commission wished to adopt the various proposals made by the officers, together with the provisional timetable for the forty-ninth session.

9. The officers' proposals were adopted.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE (agenda item 4) (E/CN.4/1993/3, 6, 9, 12, 13 and 70-74; A/47/76, 262 and 509)

10. Mr. RAMLAWI (Observer for Palestine) congratulated Mr. Ennaceur (Tunisia) on his election as Chairman of the Commission at its forty-ninth session, and assured him of the full cooperation of the Palestinian delegation. He also thanked the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories and the Committee on the Exercise of the Inalienable Rights of the Palestinian People, whose reports testified to Israeli violations in those territories. The hopes engendered when Mr. Yitzhak Rabin had assumed office in June 1992 had rapidly disappeared. That had come as no surprise to all those familiar with Mr. Rabin's active role since 1967 in all matters related to the occupied territories, who knew that the promises made during his electoral campaign were just another set of lies. Mr. Rabin's Government was, moreover, pursuing the same inflexible policy as that followed by Israel for more than 20 years, which was based on the violation of the principles set out in the international human rights instruments as well as the principles of international humanitarian law. The deliberate murder of Palestinian men, women and children in occupied Palestine was a flagrant violation of the 1949 Geneva Conventions, of article 6 of the International Covenant on Civil and Political Rights and of article 3 of the Universal Declaration of Human Rights. It was difficult to see how such a policy could be described as

anything but a crime against humanity, as defined by the Nuremberg Tribunal, for which the authors should be judged and condemned by the international community. The question also arose as to what could be said regarding the treatment inflicted on Palestinians during interrogation and detention, as evidenced in the reports by the Special Committee and by Amnesty International. That was surely a form of torture, carried out in violation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, of article 5 of the Universal Declaration, of article 7 of the International Covenant on Civil and Political Rights and of articles 31 and 32 of the Fourth Geneva Convention of 1949. Such practices appeared to constitute war crimes under the First Additional Protocol to the Geneva Conventions. The Commission must ask itself when and how the international community would put an end to them and punish those responsible.

11. The violations of human rights inflicted on Arabs in the occupied territories by the Israeli Government had been compounded by the recent deportation of 415 Palestinians to Lebanon. That action formed part of Israel's decades-old policy of "cleansing" those territories of the Arab population, in order to implant its own settlements there. All the Israeli practices (expulsions, expropriations, murders, and so on) were an affront to the 14 resolutions whereby the United Nations had, since 1967, called on Israel to respect the Fourth Geneva Convention, the latest in the long list of which was Security Council resolution 799 (1992), demanding that Israel ensure the safe and immediate return of the expelled Palestinians to their homes. Nevertheless, the Israeli Government continued, in all impunity, to ignore those appeals by the international community, in flagrant contravention of article 9 of the Universal Declaration of Human Rights and article 12 of the International Covenant on Civil and Political Rights. He wished to stress that the acts to which he was referring indeed constituted a crime under international law, and that they should be punished as such. The Security Council was currently considering the report submitted by the Secretary-General in document S/25149, while Israel continued to ignore the text of resolution 799 (1992).

12. Israel's refusal to ensure the safe and rapid return of the Palestinian deportees called for new measures by the Security Council. The Secretary-General had urged the Council to face up to its responsibility by securing Israel's compliance with resolution 799 (1992); the credibility of the entire Organization depended on its doing so. If the Security Council did not wish to be accused of appeasement of the Israeli authorities, it must do all in its power to impose full compliance with that resolution and the return of the Palestinian deportees to their homes. The Israelis had always subjected the occupied territories to a policy of collective punishments, and the expulsions were the latest episode in that process. In the past, even the most repressive regimes had stopped short of destroying civilian dwellings by shelling. Those were undoubtedly war crimes, calling for an energetic reaction by the international community.

13. He invited the members of the Commission to refer to the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, that of Amnesty International, and other reports by the Secretary-General. The conclusion to be drawn from all of them was that the human rights violations

that were taking place would not have occurred if the fundamental and initial violation of which the Israeli Government was guilty, namely the occupation of the Arab territories, had not been tolerated. In the absence of a unanimous and uncompromising reaction on the part of the international community and the United Nations, the Israeli authorities went about their criminal business in all impunity.

14. Mr. FATHI MASRI (Syrian Arab Republic) said he deeply deplored the steadily worsening human rights situation in the occupied Arab territories. Palestinians had been shot down in the West Bank and Gaza Strip, and the Israeli authorities continued with impunity to bomb south Lebanese villages. The policy of deportation was being pursued and even intensified: on 17 December 1992, 415 Palestinians had been deported from their country to Lebanon, in flagrant violation of the Fourth Geneva Convention and of Lebanese sovereignty. Syrians were also being pressured by Israel in various ways to quit their lands. There could be no doubt concerning the desire of Mr. Rabin's Government to create new settlements in the occupied territories.

15. Israel continued to defy Security Council resolutions which, for dozens of years, had remained dead letters. Yet Security Council resolution 799 (1992) strongly condemned the deportation of hundreds of Palestinian civilians as a serious contravention of the provisions of the Fourth Geneva Convention, and reaffirmed the independence, sovereignty and territorial integrity of Lebanon. In carrying out those deportations, the Israeli Government had acted in flagrant violation of all existing legal and humanitarian principles, and was thus guilty of war crimes and of crimes against humanity. Those operations were directly linked to Israel's expansionist ambitions and the desire to empty Palestinian territories of their inhabitants in order to install Jewish settlers there and create a Greater Israel. Since 1967, the Israeli Government had held the occupied territories under its rule of violence and terror, refusing with impunity to implement United Nations resolutions.

16. In his report to the Security Council dated 25 January 1993 (S/25149), the Secretary-General recalled that the deportation of the 415 Palestinians was just another link in the long chain of violations of human rights perpetrated by the Israeli Government, and that Israel's refusal to authorize Palestinians to return to their country was a challenge to the Council's authority. The speaker welcomed the firm tone adopted by the Secretary-General and urged that everything necessary be done to secure respect for resolution 799 (1992).

17. The heroic intifada, which had been waged for more than five years by the inhabitants of the occupied territories, demonstrated that nothing could stifle the resistance of the local populations, despite a constant hardening of the methods employed by the Israelis. The peace process which had been launched in the region could be brought to a successful conclusion only if Israel agreed to abide by Security Council resolutions 228 (1966), 338 (1973), 425 (1978) and 799 (1992).

18. Mr. LARSEN (Observer for Denmark), speaking on behalf of the States members of the European Community, firmly condemned the recent decision by the Israeli Government to deport 415 Palestinians, and urged the Israeli

authorities to comply with Security Council resolution 799 (1992). Those deportations were not only a breach of the provisions of the Fourth Geneva Convention, but also an infringement of Lebanese sovereignty and of international law.

19. The States members of the European Community were convinced that a just and lasting solution to the Arab-Israeli conflict and the Palestinian question must be based on resolutions 242 (1967) and 338 (1973), the full application of which was one of the objectives of the peace process initiated at Madrid on 30 October 1991.

20. The European Community welcomed the decisions by the Israeli Government concerning the reopening of universities, the release of some prisoners and the relaxation of legislation on contacts between Israelis and members of the PLO. Unfortunately, those various positive steps had had only a limited effect on the actual situation of Palestinians in the occupied territories, and seemed to be currently overshadowed by the illegal deportation of more than 400 Palestinians. The European Community called on Israel to stop immediately all settlement activity in the occupied territories, including East Jerusalem.

21. The States members of the European Community were very concerned about the treatment of Palestinians held without trial in Israeli prisons. The Community hoped, in view of the improvements recently announced by the Israeli authorities, that those prisoners would henceforward be treated in accordance with international law. Furthermore, it deplored the use, which was frequently excessive, of force by the Israeli security forces during Palestinian demonstrations, as well as the regular imposition of curfews which had the effect of punishing the civilian population in its entirety. Such measures were not only a grave violation of human rights but also had a negative impact on the economic and social situation of the population. Furthermore, curfews were a serious impediment to the work of United Nations relief agencies. The European Community therefore urged the Israeli Government to put an end to those measures. The member States of the European Community further urged the Israeli Government to repeal the policy of deportations, which constituted a violation of human rights and could harm the peace process.

22. The European Community and its member States strongly condemned violence and terror from whatever source; they remained firmly committed to the negotiations begun at Madrid, in which they intended to continue to play a constructive role, hoping that the negotiations would produce substantial results. If so, interim arrangements for self-government might be in place in 1994; that could not fail to bring about a fundamental improvement in the human rights situation in the territories occupied by Israel.

23. Mr. CORDONE (Amnesty International) said that, despite the opening of peace negotiations in October 1991, the human rights situation in the territories occupied by Israel continued to be of grave concern. In 1992, Israeli forces, including plain-clothes policemen, had shot dead more than 120 Palestinians, some of whom had been killed in circumstances suggesting summary executions if not pure and simple murders. It appeared that, in some

cases, the Israeli forces had prevented medical help from being given to the victims.

24. Amnesty International had repeatedly urged the Israeli Government to review its official guidelines on the use of firearms, to investigate allegations of human rights violations, and to bring to justice those responsible for such violations. The steps taken so far by the Israeli Government suggested that it was, at best, not concerned when Palestinians were executed by the armed forces, and washed its hands of all responsibility in the matter.

25. During 1992, the Israeli authorities had continued to subject Palestinian detainees to torture or degrading treatment. Three had died in detention, and a fourth shortly after release. Amnesty International urged the Israeli Government to bring its official interrogation guidelines, currently under review, into line with the international prohibition of torture and degrading treatment.

26. Amnesty International welcomed the decision by the Knesset in January 1993 to repeal legislation banning peaceful contacts between Israelis and organizations such as the Palestine Liberation Organization (PLO). Amnesty International had also noted with satisfaction the cancellation, in August 1992, of deportation orders against 11 Palestinians. Consequently, the decision by the Israeli Government in December 1992 to amend the relevant legislation in a matter of hours and to deport more than 400 Palestinians had been all the more shocking. Amnesty International called upon Israel to permit their return, charging, where appropriate, those suspected of having committed offences.

27. Sight should not be lost of the victims of human rights violations in South Lebanon. Some 200 detainees were held in the Khiam detention centre in what Israel described as its "security zone". They were frequently tortured and denied visits by their families or humanitarian organizations such as the International Committee of the Red Cross. Even though the Khiam detention centre was run by the South Lebanon Army (SLA), it was in territory under Israeli military control. Moreover, evidence indicated that Israeli officers had been directly involved in torture, at least until 1988. Israeli and SLA officials had repeatedly offered to liberate those detainees, as well as at least 20 other Lebanese held in Israel, in exchange for the release of, or for information about, four Israeli soldiers and a number of SLA members missing in Lebanon. That meant that the persons in question were being held as hostages; they should be immediately and unconditionally released. If any of them had committed offences, they should nevertheless be protected from torture and degrading treatment and allowed visits by families and representatives of the ICRC.

28. Amnesty International was also concerned about the fate of the missing Israeli soldiers and SLA members. They, too, should be protected from torture and degrading treatment and allowed visits by families and representatives of the ICRC. In 1992, Palestinians - members of armed groups and others - had killed 19 Israeli civilians as well as more than 200 Palestinians, most of whom had been suspected of "collaborating" with the Israeli authorities and some of whom had even been tortured before being executed. While condemning

the use of torture, Palestinian leaders generally appeared to have endorsed the execution of "collaborators". Amnesty International once again urged the PLO and the Islamic Resistance Movement (HAMAS) to do all in their power to prevent the murder of Israeli civilians and the arbitrary killing of alleged Palestinian "collaborators".

29. Lastly, Amnesty International noted that the Commission had frequently condemned human rights violations by Israel, whose authorities nevertheless persisted in committing serious violations. The Commission should thus seek more effective ways to ensure that Israel respected its human rights obligations.

30. Mr. LITTMAN (International Fellowship of Reconciliation) said that it was the responsibility of the United Nations bodies to open the way towards a peaceful settlement of differences in the Middle East. They should thus follow more closely the evolution of the situation and at least refer in their resolutions to the negotiations that were under way. Non-governmental organizations also had a part to play in the arduous process of reconciliation. That was why, on learning of the Israeli Government's decision to banish more than 400 militants of the HAMAS movement, his organization had immediately reacted by advising the Israeli Prime Minister to reverse his decision. Unfortunately, against the advice of the Israeli Minister of Justice, Prime Minister Rabin, with overwhelming backing from the Israeli population, had remained inflexible.

31. As long ago as 1989, his organization had alerted the Commission (E/CN.4/1989/SR.2) concerning the contents of the "Covenant of Hamas" which it regarded as "a blueprint for genocide". The direct link between some of the themes developed therein and Nazi doctrine was flagrant. In both cases, inspiration was drawn mainly from the notorious "Protocols of the Elders of Zion", a proven forgery produced in 1903 in Russia, the text of which could have been seen on sale in May 1988 at the official stand of the Islamic Republic of Iran at the Geneva International Book Fair, until it was withdrawn by order of the Genevan courts. The "Covenant of Hamas" based on intolerance, hatred and terror, was the credo of one of the fundamentalist movements whose turbulent arrival was announced everywhere. To contain that tidal wave, it was essential to strengthen the dike constituted by the International Bill of Human Rights. The fundamental question thus arose as to how a democratic State was to cope with such a resolute and ruthless enemy, willing to use every technique of terror. Internment of terrorists might be a solution, and that was probably what would actually happen, judging by a recent decision of the Israeli Supreme Court. It might be thought that banishment for a period of two years would be a more humane measure, but such humanitarian considerations had little weight in the face of international law.

32. The International Fellowship of Reconciliation believed that a genuine solution must depend on longer-range action that would come to grips with the economic, political and religious causes of such ideologies of hatred, exclusion and revenge. That was why it was in favour of the creation of a future confederation comprising Israel, Jordan and the Palestinians. It should, moreover, be pointed out that, since August 1992, that idea had been envisaged by many personalities including, inter alia, Faisal Husseini, Yitzhak Rabin and King Hassan II of Morocco. It was also time for

negotiations with a view to placing the Gaza Strip under a 10-year United Nations mandate, while at the same time pursuing the current Middle East negotiations, based on the Madrid Arrangements, which could result in a provisional settlement in the Judea-Samaria/West Bank and Golan areas.

33. The International Fellowship for Reconciliation was ready, if the ideas it was putting forward found favour among States members of the Commission or observers, to prepare further proposals on the subject, which it would present in the form of a written statement.

The meeting rose at 12.30 p.m.